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Report of the independent expert on the situation of human rights in Mali, Suliman Baldo

Summary

Pursuant to Human Rights Council resolution 22/18, the present report gives an account of the independent expert's first visit to Mali from 20 October to 3 November 2013. Covering the period from 1 July to 30 December 2013, it examines the political and security situation as well as the institutional reforms undertaken by Mali since the end of the severe crisis triggered in January 2012 by the occupation of the north of the country by armed groups and the return to constitutional order.

The independent expert also reports on human rights violations in the country, including summary executions, enforced disappearances, rapes, looting, arbitrary arrests and detentions, torture and cruel, inhuman or degrading treatment perpetrated by the Malian armed forces and armed groups in the country.

Despite the complex causes of the conflict between the Government and the armed groups of the north and the mistrust arising from a number of historical episodes of the conflict, the protagonists have demonstrated the political will to find lasting solutions to the multidimensional crisis that has shaken Mali. The Malian stakeholders must persevere in seeking negotiated solutions to their internal problems of governance while urging their neighbours in the Sahel and in the Arab Maghreb as well as the international community to take seriously the problems of transnational crime and terrorism that threaten to destabilize both Mali and the States of the region.

The recent crisis has revealed the underlying causes that almost led to the collapse of the State: years of deteriorating public institutions, including those that govern the rule of law, which allowed corruption to become generalized and impunity to take root. In addition to judicial prosecution of the perpetrators of the most serious crimes and abuse committed in the course of the last crisis, consolidation of peace in Mali will require reforms of the justice and security sectors, efforts to combat the endemic corruption of civil servants brought about by international trafficking and the criminalization of the economy of the north, as well as other institutional reforms.

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From the point of view of security, the international military campaign and the Malian armed forces have succeeded in dispersing the armed groups and jihadis, but not in eliminating them entirely. The latter have reorganized and, scarcely one month after the presidential elections, they have launched attacks against military and civilian targets in the north. Tensions between the Malian armed forces and the armed groups in the north, although signatories of a preliminary peace agreement with the Government, have also given rise to deadly clashes. The independent expert notes the destabilizing impact of terrorist attacks and the resumption of military operations on the situation of human rights and the restoration of State authority in the north. He calls on Mali to speed up the negotiation of an equitable, credible programme for the reform of the security sector, disarmament and the social reintegration of former combatants.

Malian justice took an important step towards the restoration of the rule of law and recognition of the rights of victims and their families by opening independent investigations and legal proceedings in the cases of enforced disappearances and other serious human rights violations that took place at the Kati military barracks in April–May 2012 and September–October 2013. The independent expert calls on Mali to protect the independence of its judiciary and to provide it with the material, technical and logistic means — which are seriously lacking — to conduct thorough investigations into the crimes committed by armed groups and Malian armed forces during the crisis in the north. The Government of Mali should mobilize the resources needed to ensure tight security for members of the criminal justice system responsible for trying sensitive cases concerning international crimes, impunity or corruption of high civil or military officials and international terrorism.

The independent expert notes the decision of the Government of Mali to restructure the Dialogue and Reconciliation Commission so as to enlarge its mandate and incorporate the components of truth and justice. All these principles are necessary to enable the Malians to confront a past marked by the socioeconomic and cultural marginalization of certain regions and communities in the country, which is one of the world's poorest.

The historical grievances of certain population groups in the north having led to repeated armed rebellions followed by at times collective reprisals, the mechanisms of transitional justice are best able — if the new Truth, Justice and Reconciliation Commission fulfils its mandate — to help the Malians address past injustices and to recognize the rights of the victims to justice, reparation and guarantees of non-recurrence.

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I. Introduction

1. The present report has been submitted in conformity with Human Rights Council resolution 22/18 of 21 March 2013, pursuant to which the Council established a one-year mandate for an independent expert on the situation of human rights in Mali and requested him to report to the Human Rights Council at its twenty-fifth session.

2. The present report covers the period between 1 July 2013 and 30 December 2013 and gives an account of the independent expert's first visit to Mali from 20 October to 3 November 2013. It is based on information collected from governmental and religious authorities, United Nations specialized agencies, and national and international non-governmental human rights organizations, as well as witnesses and victims of human rights violations.

3. The independent expert expresses appreciation to the Government of Mali, which facilitated his stay in the country and his meetings with national and local authorities. He met with the highest authorities of the country. The independent expert is grateful to the President of Mali, Mr. Ibrahim Boubacar Keita, for having taken the time to share with him his vision of the promotion and protection of human rights in Mali.

4. The independent expert also met with the Prime Minister, the Minister of Justice, the Minister for the National Reconciliation and Development of the Regions of the North, the Minister for Foreign Affairs and International Cooperation, the Minister of Security, the Minister for Territorial Administration, the Minister of Labour and Social and Humanitarian Affairs, the Minister of Education and the Minister of Health and Hygiene.

5. In addition, the independent expert met with the Public Prosecutor, the Chief of Staff of the Armed Forces of Mali, the President of the Dialogue and Reconciliation Commission, the Chairperson of the National Human Rights Commission and representatives of civil society, religious leaders, political parties, armed groups and the diplomatic corps as well as representatives of the Economic Community of West African States (ECOWAS), the African Union and United Nations specialized agencies. He also visited the north of the country, in particular the regions of Kidal and Timbuktu.

6. The independent expert spoke with many witnesses and victims of human rights violations, both in Bamako and in the north of the country, and visited places of detention in Bamako, where alleged members of jihadi groups and elements of the Malian armed forces involved in the mutiny of 30 September 2013 are detained. He also met with a delegation of Malian refugees living in Mauritania.

7. The independent expert thanks in particular Albert Gerard Koenders, Special Representative of the United Nations Secretary-General for Mali and Head of the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA), Abdoulaye Bathily, his deputy for political affairs, and the staff of the Human Rights Division of MINUSMA in Bamako, Timbuktu and Kidal. The first visit to Mali would not have been a success without the technical, logistical and security-related support of the United Nations system in Mali.

II. General situation in the country

A. The challenge of the return to constitutional order

8. Mali is gradually emerging from a severe, multidimensional crisis which led to the collapse of the State, with considerable political, economic, security-related, humanitarian,

social and cultural consequences. The epicentre of the crisis is in the north of the country, where for many years the weak State presence has made possible the emergence of a whole range of criminal enterprises, drug trafficking and smuggling of migrants to Europe, lucrative abductions for ransom, and the illegal circulation of weapons and goods of various kinds from neighbouring countries.

9. It was in that environment that on 17 January 2012, armed groups such as the National Movement for the Liberation of Azawad (MNLA), the Ansar Dine, Al-Qaida in the Islamic Maghreb (AQMI) and the Movement for Unity and Jihad in West Africa (MUJAO) occupied the north of the country, a development which was accompanied by serious violations of human rights and international humanitarian law as well as major population displacements from the north to other regions in Mali or to neighbouring countries.

10. On 21 March 2012, a mutiny at the Kati military barracks led to the overthrow of the regime of General Amadou Toumani Touré, although he was at the end of his term of office. A group of non-commissioned officers led by Captain Amadou Haya Sanogo suspended the constitutional order and the democratic process in the country. This situation divided the political class and civil society, undermined the country's economy and fragmented the defence and security forces. In April–May 2012, violent clashes broke out in Bamako between the "red berets" and the "green berets" of the Malian army, resulting in several persons killed, wounded or missing. The red berets, supporters of Captain Amadou Haya Sanogo, suspected the red berets, loyal to General Amadou Toumani Touré, of fomenting a counter-coup against the military junta.

11. The framework agreement of 6 April 2012, signed under the auspices of ECOWAS, resulted in the establishment of transitional institutions under interim President Dioncounda Traoré. After a brief period in power, the military junta withdrew to Kati barracks, near Bamako, while retaining considerable influence in the Transition Government and the defence and security forces. The intervention of the French army in January 2013 in Operation Serval, in support of African troops, halted the offensive of armed jihadi groups towards the south and liberated localities in the north of the country.

12. On 18 June 2013, the Transition Government and the armed groups of northern Mali (MNLA, the Supreme Council for the Unity of Azawad (HCUA), the Arab Movement of Azawad and the Patriotic Forces of Resistance) signed a preliminary agreement in Ouagadougou on presidential elections and inclusive peace negotiations in Mali, and presidential elections were held on 28 July and 11 August 2013 throughout the country. The elections were an essential step towards resolving the crisis in Mali, restoring constitutional order and strengthening the legitimacy of the State. Despite many challenges associated with a tight election schedule and a fragile security context, the elections were held in satisfactory conditions and in a peaceful climate, and with an exceptional level of participation of 48 per cent. On 12 August 2013, Soumaïla Cissé conceded defeat and went to the home of President-Elect Ibrahim Boubacar Keïta to congratulate him.

13. In his inaugural address, the President of Mali declared that a settlement of the problem of the north continued to be the most pressing priority. As soon as it was established on 8 September 2013, the new Government adopted a number of measures to promote inter- and intra-communal dialogue and engage with the armed groups and other actors in the crisis in the north, including through the organization in Bamako of national consultations on decentralization from 21 to 23 October 2013 and a national conference on the north from 1 to 3 November 2013.

14. The electoral process was completed with the holding of legislative elections on 24 November and 15 December 2013. Approximately 6.5 million voters were called upon to vote in order to build on efforts to restore the constitutional order and State institutions.

According to the provisional official results of the second round, announced on Tuesday 17 December by the Minister for Territorial Administration, the presidential party, the Rassemblement pour le Mali (RPM), and its allies had an absolute majority.

B. The security challenge in the north

15. Scarcely a month and a half after the presidential election, the armed groups reorganized and resumed their destabilizing activities with a series of attacks aimed at military and civilian targets. Clashes between MNLA and the Malian armed forces also resumed, with at least five incidents in September alone, resulting in the deaths of 18 MNLA and Malian army combatants. No civilian victims were reported. Another major incident took place on 8 November 2013 in the village of Egazargane, in the Gao region, resulting in the deaths of three MNLA members and three wounded.

16. The threat of improvised explosive devices remains high, with five incidents reported in July 2013. Two such devices were found and defused on 27 and 29 July near the village of Aguelhok, north of Kidal, by French soldiers of Operation Serval.

17. The independent expert travelled to Kidal on 26 October 2013 and met there with MINUSMA, MNLA and HCUA, as well as organizations of civil society, having previously held a working meeting in Bamako with the Governor of Kidal, who was there in connection with his participation in the national consultations on decentralization. At the time of the independent expert's visit, the situation in Kidal, where Tuareg rebellions have broken out repeatedly since independence, remained fragile and was characterized by a weak State presence and limited State control over the region.

18. MNLA continued to occupy the governorate and most of the public buildings in the town. It also controlled the regional stations of the Mali Radio and Broadcasting Office, which it regularly used to disseminate messages fomenting hatred and violence.

19. On 14 November 2013, the restitution by MNLA of the governorate of Kidal, the official residence of the Governor and Kidal's ORTM radio station appeared to indicate a willingness of the groups involved to find peaceful solutions for the restoration of State authority. However, MNLA and HCUA still occupy other State buildings, including the regional assembly, the youth centre and the prison.

20. On 14 December 2013, a vehicle loaded with explosives was used to launch an attack on a MINUSMA troop transport vehicle parked in front of the bank of Kidal. The car transporting the assailants reportedly crashed into the MINUSMA vehicle, which had stopped to relieve the guards of the bank's outer perimeter; soldiers of the Malian army were guarding the inner perimeter. The toll was two dead and three wounded MINUSMA soldiers and three wounded Malian soldiers. The bank and a school across from the bank sustained heavy damage.

21. On the evening of 16 December 2013, three explosions were heard in the vicinity of the MINUSMA base at Kidal. According to reports, artillery or mortar shells were fired at positions held by MINUSMA peacekeepers and landed nearby, without harming MINUSMA personnel or damaging MINUSMA equipment.

C. The challenge of the restoration of State authority

22. The independent expert found that during the occupation of the north by armed groups, the authority of the State had weakened considerably in the regions of Kidal, Gao and Timbuktu, as well as in part of the regions of Mopti and Ségou. Despite the liberation

of a large part of the north, the Malian State has not yet been able to recover control over the entire territory.

23. It is still difficult for government authorities to travel to the region of Kidal on official visit. In mid-September 2013, the convoy of a delegation of members of the Government of Mali was attacked by stone-throwing demonstrators – MNLA sympathizers demanding independence for Azawad. On 28 November, an airplane transporting the Prime Minister was unable to land in Kidal because of demonstrators at the airport protesting his visit in the region.

24. In the north, the consequence of the occupation has been the systematic destruction of all State presence. State functions such as the territorial administration, security, justice, education and health care were particularly hard hit, since they were strategic targets for jihadi groups seeking to replace the judicial order by the sharia. Many public service buildings and infrastructures were destroyed. The civil servants and State officials assigned to the north fled to Bamako.

25. The independent expert noted that the Malian authorities were gradually reintroducing institutions in the north for security and public order, justice, public health and education, notwithstanding problems encountered in the rehabilitation and reconstruction of administrative infrastructure and other public service buildings destroyed during the occupation. The authorities were planning to reinforce the presence of police and gendarmerie stations in the north. One of the main focal points is the establishment of a fully operational prison system based on new integrated units designed to provide support for the judicial system and the security sector.

26. The authorities have also introduced incentives to encourage civil servants to return to their posts in the north. However, those who have been able to do so encounter many obstacles on the ground which impede the resumption of State services, such as the lack of basic computer infrastructures and equipment or functioning offices. The authorities also aim to ensure public order and security by opening police stations and prisons.

D. The challenge of the fight against impunity

1. Judicial mechanisms

27. The Transition Government has had mixed results and an ambivalent attitude towards combating impunity. On the one hand, it has filed an application with the International Criminal Court to bring to justice suspected perpetrators of international crimes committed in the north. On the other hand, a Council of Ministers decision of 14 August 2013 went in the opposite direction by exceptionally promoting Captain Amadou Haya Sanogo to the rank of lieutenant general, despite a number of reports of his involvement in human rights violations since the coup of 22 March 2012.

28. Moreover, the Ouagadougou Preliminary Agreement provides that the parties undertake to adopt appropriate confidence-building measures to facilitate the implementation of the Agreement, and to release the persons detained in connection with the armed conflict. On 29 October, the Government released 11 members of armed groups detained in connection with the events in the north, and it annulled arrest warrants issued against a number of Tuareg rebel chiefs, including 4 former members of parliament affiliated with MNLA and HCUA.

29. The independent expert noted with concern that such a measure opens the door to granting impunity and constituted a de facto amnesty for acts committed by armed groups in northern Mali that might potentially be considered international crimes.

30. Despite these challenges, the independent expert found during his visit to Mali that the fight against impunity had been stepped up considerably in the context of the mutiny of 30 September 2013 at the Kati military barracks by elements of the junta hostile to General Sanogo. That incident had enabled the new authorities of the country to restore State authority over the Kati barracks, which had become the headquarters of the junta since the coup of 22 March 2012, and thus to weaken General Sanogo.

31. On 31 October 2013, the judge investigating the enforced disappearances of 23 soldiers following the counter-coup of 30 April 2012 issued arrest warrants against 17 members of the armed forces, including General Sanogo. On 27 November 2013, General Sanogo was arrested and brought before the investigating judge, who indicted him and ordered him to be placed in detention.

32. In a communiqué of 6 December 2013, the Government of Mali informed national and international public opinion that on the night of 3 to 4 December 2013, the investigating judge of the second chamber of the court of first instance of Commune III (Bamako District), with the assistance of the forensic experts of the national gendarmerie's judicial investigation service, and in the presence of the public prosecutor of the Bamako Court of Appeals and the Minister of Justice, had proceeded to exhume 21 bodies (including some in military uniform) found in a common grave in the rural community of Diago, near Kati.

33. The independent expert met with courageous members of the judicial system who, mindful of their responsibilities, were determined to avail themselves of all institutional resources at their disposal to help advance the fight against impunity, a prerequisite to lasting peace and true reconciliation in Mali. That attitude resulted in some of them receiving death threats or threats of abduction in the context of sensitive cases and proceedings to which they had been assigned.

34. Despite considerable progress made in investigating the serious crimes with which the junta is charged, Malian courts, handicapped by the lack of resources and protection, have made little headway in their inquiries into crimes attributed to armed and jihadi groups since the beginning of the crisis in January 2012. For the same reasons, the courts have not followed up credible reports by witnesses and victims of ill-treatment or torture or cases of enforced disappearances of persons detained by Malian armed forces during the conflict in the north. As long as this situation is not remedied, it will continue to be a serious obstacle to the fight against impunity in Mali.

35. The independent expert has also noted that the judicial system does not have the capacity or resources to deal with the diversity and complexity of crimes committed in northern Mali, which include international crimes such as crimes against humanity, terrorism, abductions and drug trafficking. Generally speaking, the judicial system faces a number of challenges that limit its ability to function. These include inadequate financial and material resources, the insufficient independence of the judiciary, corruption, high legal costs, the remoteness of the courts, inadequate training and the lack of human rights training.

36. With regard to the procedure before the International Criminal Court, on 13 July 2012 the Transition Government, by means of a letter addressed by the Minister of Justice to the Prosecutor of the International Criminal Court, referred the most serious crimes committed in northern Mali since January 2012 to the Court. On 16 January 2013, the Prosecutor of the International Criminal Court announced his decision to initiate an investigation and to prosecute all crimes under the jurisdiction of the Court committed on Malian territory since January 2012.

2. Non-judicial mechanisms

37. On 6 March 2013, the Transition Government established a Dialogue and Reconciliation Commission with a two-year mandate to identify the political and social forces concerned by the dialogue and reconciliation process as well as armed groups eligible to participate in that dialogue in conformity with the roadmap for the transition, register cases of human rights violations committed in Mali between the commencement of hostilities and the complete recovery of control over the country, and propose any measures likely to help the victims overcome their traumatic experiences.

38. Many persons who met with the independent expert expressed reservations about the procedure for the establishment and composition of the Dialogue and Reconciliation Commission. The procedure was criticized for being carried out unilaterally, without the participation of civil society or the victims of human rights violations and without a request for the technical assistance of partners such as the Office of the United Nations High Commissioner for Human Rights, despite the Office's presence in Mali and its recognized expertise in the field.

39. The independent expert is pleased to note that the new Government has become aware of the importance of reforming the Dialogue and Reconciliation Commission, and he welcomes the efforts by the Malian authorities to give the Commission fresh impetus. The Ministry for the National Reconciliation and Development of the Regions of the North has been mandated to define and implement a strategy of coexistence based on equity and justice. In the course of the meeting with the authorities, the independent expert drew their attention to the need for the Commission to put greater focus on the truth dimension, to place the victims at the centre of the process and to adopt a participatory approach in order to enhance the new Commission's legitimacy.

40. On 13 December 2013, the Council of Ministers restructured the Commission, adopting bills for the establishment, organization and functioning of the Truth, Justice and Reconciliation Commission. According to the communiqué of the Council of Ministers of 13 December, the Truth, Justice and Reconciliation Commission will take into account the dimensions of truth and justice and will contribute to establishing a lasting peace by seeking truth, reconciliation and the consolidation of democratic values.

III. The human rights situation

A. Civil and political rights

1. Human rights violations committed by the Malian armed forces

41. In the course of the period under consideration, the independent expert received reports of human rights violations, including summary executions, enforced disappearances, rapes, looting, arbitrary arrests and detentions, and torture and cruel, inhuman and degrading treatment perpetrated by the Malian armed forces against the civil population in the north, mainly members of the Arab and Tuareg communities of the regions of Kidal, Gao and Timbuktu.

42. On 30 September 2013, a mutiny broke out at the Kati military barracks, started by a dissident group belonging to the former Comité national pour le redressement de la démocratie et la restauration de l'État (National Committee for the rehabilitation of democracy and the restoration of the State), which included members of the junta. The mutineers demanded promotions and material benefits for the soldiers who had participated in the coup of 22 March 2012 as well as the revocation of General Sanogo's status. The mutineers wounded a colonel whom they had abducted and threatened with their weapons.

The men faithful to General Sanogo reacted with brutality: at least 4 soldiers were executed and 11 others are unaccounted for, including colonel Youssouf Traoré.

43. On 2 October 2013, a Tuareg member of MNLA was reportedly killed in the locality of Aguelhok by members of the Malian armed forces. According to witnesses, the incident took place when a group of Malian soldiers approached two unarmed members of MNLA and mistreated them. One of the men fled, and the other was killed by a Malian soldier. The incident caused considerable tension in Aguelhok, where other serious incidents were reported on 5 October.

44. On 28 November 2013, 5 civilian members of the Tuareg community, 2 women (aged 23 and 26) and 3 men (aged 16, 19 and 30), were critically injured during violent demonstrations organized at Kidal airport by some 300 MNLA sympathizers to protest the arrival of the Prime Minister in their region. MINUSMA troops and Malian armed forces were deployed in the area to ensure security. The demonstrators reportedly threw stones at the MINUSMA troops and the Malian armed forces that were attempting to prevent them from occupying the runway. The soldiers of the Malian armed forces reportedly opened fire on the demonstrators, critically wounding five persons. One of the victims, a woman, died of her injuries after being evacuated to Bamako.

45. The independent expert is concerned about the recent waves of arrests and arbitrary detentions by the Malian armed forces of persons belonging mostly to Tuareg, Songhai and Arab communities in northern Mali. The arrests are usually ordered following at times false accusations made by members of local militia or the population. The arrests and arbitrary detentions are having an adverse impact on the return of displaced persons and refugees to their region of origin.

46. The independent expert noted the case of a traditional Tuareg chief who earlier had fled to Burkina Faso and who was arrested on 16 November after returning to northern Mali to take part in the legislative election campaign. He was reportedly accused by the local population of collaboration with armed jihadi groups during the occupation. The detainee, who later was transferred to Bamako, denied the allegations and maintained that he had been living in Burkina Faso since February 2011. Owing to the weak presence of the judicial system in the north, it is not possible to verify such allegations expeditiously or to free the persons concerned in the absence of evidence. In fact, in many cases, persons freed by the gendarmerie after an inconclusive investigation have then been arrested by the Malian armed forces on the basis of the same allegations. This interference by the army in legal proceedings concerning civilians also gives cause for concern.

47. The independent expert has also received reports of cases of ill-treatment and abductions. For example, it was reported that on 3 November 2013 three Tuareg dignitaries of the Ifoghas community were badly beaten about the head by two members of the Malian armed forces during a patrol in Tarssek, near Kidal. One of them lost consciousness and the other fell to the ground and was unable to stand up. Cases of ill-treatment inflicted by the Malian armed forces have also been reported in a number of villages in the north.

48. On 23 July, members of the Malian armed forces who were part of a military assistance and training detachment reportedly stopped their vehicle and arrested a 28-year-old teacher of Songhai origin in Mopti. The family still has no news of the victim. The victim's mother lodged a complaint at the Mopti police station and court, but no action was taken.

49. The independent expert also received consistent reports of the exhumation in July 2013 in the vicinity of Timbuktu of the bodies of six Arab dignitaries, including an elderly man named Ali Ould Kabbad. The victims were last seen alive when they were being arrested by soldiers of the Malian armed forces.

2. Human rights violations committed by armed groups

50. Armed groups continue to be involved in serious human rights violations in northern Mali, including violations of the right to life, abductions, rapes, ill-treatment, violations of the right to own property and suicide attacks resulting in the deaths of 47 persons, including 2 peacekeepers, 2 French reporters and 1 minor as well as numerous civilians. Human rights observers have also collected information on nine cases of serious human rights violations committed by MNLA, in particular in Kidal and Timbuktu, involving 21 civilians and 1 member of the Malian armed forces. MNLA elements were also implicated in cases of arrest and arbitrary detention, torture, recruitment and employment of children, looting, extortion and intimidation.

51. At about one o'clock on the afternoon of 28 September 2013, a vehicle exploded next to the entrance to the garrison of the Fifth Military Region of Malian armed forces in Timbuktu. Three suspected jihadis were in the vehicle, which apparently was heavily loaded with explosives. Travelling at high speed, the vehicle crashed into a military building adjoining the garrison's checkpoint and blew up. The preliminary toll was five persons killed – the three suspected jihadis and two civilian passers-by. AQMI claimed responsibility for the attack.

52. On 7 October, six shells were fired at the town of Gao, seriously injuring one Malian soldier. MUJAO claimed responsibility for the attack. That same day, a bridge near the locality of Ansongo was damaged by an improvised explosive device. On 23 October, four persons blew up their vehicle, which was filled with explosives, at a roadside checkpoint of MINUSMA peacekeepers in Tessalit, resulting in the deaths of seven persons, including two MINUSMA soldiers from Chad and a 6-year-old child. On 1 November, violent demonstrations were held in Gao and Menaka to protest the lack of basic services such as access to water, electricity and the courts as well as the deterioration of security conditions and the economic situation.

53. The illegal circulation of firearms in the town of Kidal seems to have had an impact on the security of civilians. On 24 October, a 35-year-old man, a member of MNLA, was reportedly murdered in his home in the Abeibara Cercle, 50 kilometres from Kidal, by three armed members of AQMI who came on motorcycles. Two days later, an Arab truck driver was reportedly killed in similar circumstances by armed men on motorcycles. The incident took place on the Anefis road, approximately 110 kilometres from Kidal. The three surviving passengers reported the incident to the Kidal gendarmerie.

54. On 2 November, two French reporters working for Radio France international were abducted and murdered by four armed men in the Kidal region. Their bodies were found some 15 kilometres from Kidal, on the Tin-Essako road. This serious incident constitutes the ultimate obstacle to freedom of expression, including freedom to inform and the right of access to information.

55. On 4 November, four civilians, including a woman and a child, were killed when the transport vehicle in which they were riding hit an improvised explosive device approximately 110 kilometres west of Menaka, in the Gao region. On 26 November 2013, three members of the Tuareg community were reportedly abducted in Kidal and two of them executed by members of AQMI between Talahandak and Borhassa, 285 kilometres north of Kidal, near the Algerian border. The bodies of the two victims, aged 25 and 29, who were members of the Ifoghas community, were found by the local population and turned over to members of their families. The third victim is still unaccounted for.

56. The independent expert also received reports about the murder of a traditional chief in Gourma Rharous, in the Timbuktu region. The incident occurred on 28 November 2013, when two armed men forced their way into a Tuareg camp and reportedly fired two shots, killing the head of the Tinaliderene community, 65 kilometres northeast of Ouinarden

(Gossi Commune). In another incident in the Timbuktu region, 20 kilometres north of Gossi, a Fulani businessman was reportedly abducted and murdered on 2 December 2013. His house was looted before he was killed.

B. Inter- and intra-communal clashes

57. The independent expert is particularly concerned about recent waves of violence between ethnic and racial communities in northern Mali, notably between Arabs, Fulani, Tuaregs and Songhai, which have resulted in loss of life in each of those communities. Six serious clashes were reported during the period covered by this report in Kidal, Gao and Timbuktu, with a death toll of at least 20 persons. The clashes are exacerbated by criminal activities, raids, drug and human trafficking and the circulation of firearms, all of which fuel conflicts.

58. One of the most worrisome aspects of these clashes is the failure to distinguish between members of each community, who are no longer perceived as individuals responsible for their own acts. In such situations, there is a very high risk of serious human rights violations, because acts by individuals are attributed to an entire community, whose members are then in danger of being targeted, not for acts that they are suspected of committing, but for being members of that community.

59. One emblematic case of such inter-communal violence occurred on 31 October 2013 in the village of Ekawayane, which is located in the Aljounoub Commune in the Timbuktu region. It involved a punitive expedition following the alleged murder of a young Tuareg on 30 October 2013 by an Arab in the village of Tilemsi, about 190 kilometres from Goundam. Young armed Tuaregs reportedly attacked the village of Ekawayane, which is mainly inhabited by Arabs. Two Arabs, including the head of the village, were reported to have been killed. Six other Arabs were reportedly abducted by MNLA elements in Tilemsi on 30 October for their alleged involvement in the death of the Tuareg. There is no information on the fate of these persons.

60. There have also been clashes within the Tuareg community, between Ifoghas and Idnans, in particular in Tin-Essako, Talahandak and Tinzahouatene, causing insecurity and leading on 27 November 2013 to the abduction and summary execution of two persons. Both communities are affiliated with MNLA, but do not agree on whether the movement should be secular or Islamic in nature.

61. The independent expert notes with concern that Tuareg society is composed of clans and a confederation of clans with a rigid hierarchical structure that ensures that the Bellas, dark-skinned Tuaregs still regarded as slaves and who are denied their inherent human rights and dignity, are kept at the bottom of the social scale. That hierarchical structure also has a generational dimension, since MNLA appears to be composed chiefly of young people determined to overthrow the established order in their community and impose social mobility by force of arms.

62. These internal dynamics of Tuareg society lead to competition between clans for power in the region. The absence of a strong presence of the Malian State in the north has accelerated and radicalized these intra-communal tensions, which have flared up periodically in Malian society since independence in the form of armed rebellion. This has a destabilizing effect on the entire country. At the same time, some Tuareg soldiers in Mali's defence and security forces do not hesitate to use the army and their position in the armed forces to enhance the power of their clan within their community and thus settle accounts, sometimes to the detriment of human rights.

C. Violence against women

63. During the occupation of northern Mali in January 2012, armed groups committed sexual violence, including rape, gang rape, sexual slavery and forced marriage. These conflict-related acts reflect the poor status of women in Malian society and the heritage of slavery. Women and girls of the Bella community, who are regarded as descendants of the slaves of Tuaregs, have often been targeted by rebel groups. In another case, which is expected to be the subject of investigations and prosecutions, members of the "green berets" are accused of raping dozens of spouses and daughters of "red berets" during the attempted counter-coup as a form of reprisal.

64. Allegations of sexual violence have declined significantly since the liberation of northern Mali. The deterioration of the security situation seems to have been an important factor in many cases of sexual violence reported in the north, in particular in Gao and the vicinity, the perpetrators of which are usually members of armed groups.

65. The victims are often minors who are attacked at the home of their parents. In other cases, women were singled out by armed men who attacked the bus in which they were travelling. For example, in the Timbuktu region, five women were raped by armed men in civilian clothing. One victim reported that at around 4 o'clock on the afternoon of 2 November 2013, she was on board a bus on the road between Tonka and Bouna, in the Timbuktu region, in the company of four other women, the driver and an elderly person, when two white vans suddenly appeared with eight armed men on board who ordered the driver to stop, forced the five women to leave the vehicle and raped them for 5 hours. One of the victims told investigators that she had been raped several times by three men who spoke Songhai, Arabic and Tamasheq.

66. Another typical case concerns a 21-year-old woman detained in a rape case since 28 February 2011 in Djenné prison (Mopti region) who claims to have been the victim of repeated physical and sexual violence since March 2013. The victim alleges that when she complained to the prison director after the first rape, he told her to take contraceptive measures. She also contends that she was forced to perform domestic work in the prison and that her earnings were extorted by prison guards and the prison director.

67. On 1 December 2013, three women were abducted and raped during an attack on the Inamoussa of Bozo, a village 44 kilometres north of Gossi (Timbuktu region). The attack was reportedly carried out by a group of armed men identified by the victims as being Tuaregs. There was widespread looting of property during the attack, which caused a panic in the village and led to the closing of schools.

68. The independent expert is concerned about the impunity still enjoyed by the alleged perpetrators of sexual violence in Mali. The victims invariably encounter numerous obstacles to taking their cases to court, in particular in the north, where there is a minimal presence of judicial authorities and a fragile security situation. Many victims and organizations of civil society have reported their frustration about the failure to prosecute known cases of rape, a circumstance which may impede endeavours to achieve national reconciliation. Government efforts, supported by the United Nations, to enhance the capacity of the security forces and ex-combatants to prevent sexual violence and protect women and girls must be conducted in the framework of a global strategy that focuses on the victims, provides for reparation and guarantees non-recurrence of such acts.

D. The situation of children

69. Children are one of the biggest categories of victims of the Malian crisis. The resurgence of violence and the insecurity in the north greatly increased the risk of abuse and

violation of children's rights. Although in many respects the protection of children's rights gave cause for concern even before the crisis, the occupation of the north by armed groups led to a serious deterioration in the situation of children, as well as to new serious problems, such as separation from parents, displacement, recruitment by armed groups, ideological and religious indoctrination, violence, including sexual violence, and the risk of violation of the right to life.

70. Many of the victims of recent attacks by armed groups in the north, in particular in Tessalit, Kidal, Timbuktu and Gao, were children. Numerous cases of sexual violence against children were reported, mainly in northern Mali. The United Nations Children's Fund (UNICEF) reported 767 children separated from their parents and 77 children injured by explosives abandoned during military clashes, sometimes in schools.

71. The recruitment of children by armed groups has resulted in a considerable number of arrests of minors since the beginning of the crisis. The independent expert welcomes the signing by the Government and the Special Representative of the United Nations Secretary-General, on 1 July 2013, of the protocol for the release, transfer and protection of children associated with armed forces and groups. A request has been made to the authorities to examine the case of children arrested prior to the signing of the protocol. Ten children associated with armed groups are still in detention, including five adolescents detained at Gendarmerie Camp 1, in Bamako.

72. In October 2013, five children associated with armed groups were returned to their families after spending time in transit centres supported by UNICEF until their parents were found.

E. Prison conditions

73. The independent expert has closely followed the cases of persons, usually members of the Tuareg and Arab communities, arrested in the context of the crisis in northern Mali by Malian armed forces. He visited the places of detention where these persons are held, including the Bamako central prison and the Gendarmerie Camp 1 detention centre in Bamako. The Human Rights Division of MINUSMA also regularly visits detainees around the country to gather information on detention conditions and on the progress of the legal proceedings instituted against them.

74. As of 2 December 2013, the Human Rights Division, through its regular visits to detention centres in the country, had registered the names of 400 persons arrested since 2012 in connection with the conflict in northern Mali. Human rights teams collected information enabling them to determine the situation of 332 persons: 138 had been released, 185 were detained in Bamako, 3 were detained in Gao and 6 had died in detention; it had not been possible to establish the whereabouts of 68 detainees.

75. Of the 138 released detainees, 3 received a presidential pardon. The period between September and October 2013 witnessed the largest number of releases of detainees, both by the Malian authorities and MNLA. All told, the Malian authorities released 93 detainees, and MNLA released 30 detainees from various detention centres in Kidal.

76. The independent expert is closely following the release of members of armed groups in the context of the implementation of the Ouagadougou Preliminary Agreement signed in June 2013. MNLA and HCUA communicated to the mediator a list of 120 names of their members and sympathizers to be released in order to facilitate the peace negotiations. As of 2 December 2013, 38 persons on that list had been released; 1 of the persons concerned by those measures had died in prison.

77. The independent expert regrets that he did not receive authorization to visit the detention centres of the State security intelligence agency, despite numerous requests. He notes with concern that no organization has been able to obtain access to the persons detained in State security facilities, despite many allegations that torture is practised there. The independent expert and the human rights teams of MINUSMA were able to meet with eight detainees who had been held by the State security and who alleged that they had been tortured and subjected to other ill-treatment during interrogations. For example, it was reported that one person had had his ear pierced with a pen and had been severely beaten during interrogation. The detainees met with also asserted that the State security had torture facilities, including a "punishment room", in which an electric chair and other torture equipment were used.

78. Many detainees who were members of armed groups stated that they had been subjected to torture and ill-treatment by the Malian armed forces after their arrest in the north. Those acts ceased once they were transferred to the gendarmerie in the north and, later, to Bamako.

79. The independent expert is deeply concerned about problems of hygiene and cleanliness in many prisons and places of detention, as was evident during his visit to Bamako central prison, and about the lack of regular medical care for detainees.

F. Refugees and internally displaced persons

80. Since 2012 the armed conflict in northern Mali has displaced 424,000 persons: 255,000 persons were internally displaced, and 168,000 persons (as of 30 November 2013) fled to Mauritania, Burkina Faso and Niger. The Government has undertaken to encourage refugees and displaced persons to return to their regions of origin voluntarily in order to participate in presidential and legislative elections. A special initiative was launched between 15 and 31 October to bring returned persons to polling stations of their choice; 163,423 voters were brought to electoral districts under this measure.

81. The Government also facilitated election participation for refugees in camps. In cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Development Programme (UNDP) and the International Organization for Migration (IOM), the authorities visited camps in Burkina Faso, Mauritania and Niger to arrange for refugee participation in elections. Thanks to that initiative, 19,020 refugees were able to register to vote.

82. The resurgence of violence and false accusations followed by arrests and arbitrary detentions are likely to discourage the return of refugees and internally displaced persons.

G. Economic, social and cultural rights

83. Even before the political and security crisis of January 2012, Mali had already faced a severe food crisis throughout the Sahelian band of its territory because of the poor agricultural harvest of 2011–2012. Food insecurity and the living conditions of the population worsened with the occupation of the north by armed groups.

84. The economic sanctions that followed the military coup included the suspension of development assistance by technical and financial partners and an economic and financial embargo by ECOWAS.

85. The reduced presence of State officials also poses considerable problems. Of the 176 health-care centres in the areas affected by the conflict, only 121 are open, and many schools in the north are still not operational, although the school year started on 17 October

in Timbuktu and on 1 November in Gao. To date, 85 of Timbuktu's 460 schools and 195 of Gao's 569 schools may have to remain closed for security reasons. In Kidal, no school has opened, although MNLA has expressed its intention to do so.

86. Some progress has been made with the provision of basic services thanks to efforts by the authorities and their humanitarian and development partners. However, much remains to be done to continue to meet the urgent needs of the population and help the authorities to reintroduce and ensure lasting rehabilitation of basic services and infrastructures and restore the means of subsistence of persons affected by the crisis.

87. On 27 November 2013, the Council of Ministers adopted bills on the establishment, organization and operation of a National Employment and Training Observatory. This new body is responsible for coordinating the collection, processing, storage and dissemination of information on the labour market in order to ensure a better balance between needs and possibilities. On 16 October 2013, the Council of Ministers of the new Government also adopted a draft decree regulating the collection and sale of raw diamonds in line with the Kimberley Process Certification Scheme in order to prevent the purchase of diamonds placed by rebel movements on the world market to finance their activities.

88. With regard to cultural rights, the independent expert noted that during the occupation of northern Mali by armed groups, the cultural heritage and cultural practices and expressions in Timbuktu and Gao were prime targets of systematic and generalized attacks by jihadi groups. In Timbuktu, 11 of 16 mausoleums on the list of World Heritage Sites were destroyed, as were the 2 mausoleums of the Djingareyber mosque and the El Farouk monument. The sacred door of the Sidi Yahia was broken down. Approximately 4,200 manuscripts from the Ahmed Baba Institute of Higher Learning and Islamic Research were burned by armed groups. In the Gao region, the El Kebir mausoleum was destroyed in October 2012. In Douentza, the big toguna in the centre of the town was pillaged and its sculpted pillars burned. The intangible cultural heritage was also affected by the events.

89. The independent expert welcomes the efforts being made by the United Nations Educational, Scientific and Cultural Organization (UNESCO) and MINUSMA to establish an inventory of Mali's intangible cultural heritage and to restore and protect the country's cultural heritage. He also notes with appreciation that the cultural dimension is taken into account in the mandate of MINUSMA. Security Council resolution 2100 (2013) is the first to include the protection of cultural and historical sites in the mandate of a peacekeeping operation.

90. The independent expert noted in particular that the President of Mali had explained to him his vision of how important it was for modern human rights to be based on the solid cultural bedrock of humanism and tolerance which the Malian people, with its rich diversity, has developed over time. In that connection, the new Manden Charter, proclaimed in Kurukan Fuga at the beginning of the thirteenth century by the founder of the Mandinka Empire and inscribed in 2009 in the List of the Intangible Cultural Heritage of Humanity, is a real source of inspiration for contemporary human rights.

IV. Conclusions and recommendations

A. Conclusions

91. **The dramatic events of January and March 2012 highlighted the vulnerability of Mali, a developing country with weakened State structures, in the face of an alliance of convenience between Malian rebels and armed jihadi groups from outside the country. Although routed in early 2013 through the intervention of France and**

African forces, these groups are still in a position to conduct terrorist and guerrilla operations in the north against military and civilian targets.

92. **The major challenges which Mali must address in 2014 are the consolidation of security in the north and the strengthening of constitutional order, which the country had restored with the help of presidential and legislative elections. Mali must also reinforce the rule of law and the fight against impunity and make major efforts to reform the judicial system and the security sector. A frank dialogue with the armed groups which agreed to support the Malian State and recognized its sovereignty, secular nature and the indivisibility of its territory, as well as with the communities in northern Mali, is the only way of promoting national unity and creating favourable conditions for an effective introduction of State services throughout the country.**

93. **In establishing the Truth, Justice and Reconciliation Commission, Mali has set out on the path to transitional justice by seeking to obtain redress, with reparation and guarantees of non-recurrence, for the victims of the massive violations of human rights and international humanitarian law committed in the north of the country since independence.**

B. Recommendations

1. Recommendations for the Malian authorities

94. ***Concerning the fight against impunity*, the independent expert recommends that:**

(a) The technical capacities and budgetary and logistical allocations made available to members of the penal system active in the investigation and prosecution of crimes committed by members of armed groups and the Malian armed forces should be strengthened; measures should be taken to ensure that judges responsible for hearing sensitive cases are protected and that such investigations and prosecutions are conducted with due regard for international norms;

(b) Resources should be immediately allocated so that military courts can conduct investigations and prosecute members of the State security forces implicated in serious violations, including those who, on the pretext of obeying their superiors, are responsible for not having prevented or punished crimes committed before, during or after the crisis;

(c) Measures should be taken to ensure that persons placed in police custody or detained during military operations, including during rapid pretrial detention procedures, are treated humanely and guaranteed due process, in line with international norms;

(d) The deployment of the police, gendarmerie and judicial personnel in towns and villages in the north should be stepped up to enable the judicial system to resume functioning in accordance with national and international law;

(e) The reform of the judicial system should be undertaken at the same time as that of the security sector, in particular the army, the police, the gendarmerie and State security services; such reforms are needed if the Malian Government is to meet the paramount objective of combating impunity.

95. **The independent expert recommends that the *Truth, Justice and Reconciliation Commission* should:**

(a) Pursue an achievable and realistic set of objectives under a reasonable work plan;

(b) Ensure the participation of all stakeholders, in particular women and marginalized groups, in the peacebuilding process;

(c) Ensure the constructive integration of armed groups which have renounced armed struggle, and demonstrate its commitment to strengthening the constitutional order in Mali;

(d) Facilitate the creation of a road map for peacebuilding activities after the Commission.

96. **The independent expert makes the following recommendations *concerning the fight against violence against women*:**

(a) The Government of Mali should comply with its obligations under Security Council resolution 1960 (2010), in which the Security Council called upon the Member States of the United Nations to issue clear orders, through chains of command and Codes of Conduct or their equivalent, prohibiting sexual violence by members of the security forces and armed groups;

(b) The Government of Mali should examine without delay allegations of sexual violence with a view to prosecuting alleged perpetrators;

(c) The Government of Mali should appoint a person responsible for ensuring the implementation of these commitments at a high level;

(d) The Government of Mali should cooperate with the United Nations and facilitate its access in order to ensure compliance with these obligations;

(e) The Malian authorities and international partners should ensure that victims of sexual violence have access to HIV-related legal assistance and medical services as well as psychosocial rehabilitation;

(f) The Government of Mali and the Truth, Justice and Reconciliation Commission should consider the question of redress for the victims and their families through a multisectoral approach rather than the granting of purely legal compensation.

2. Recommendations for civil society

97. **The independent expert recommends that civil society should:**

(a) Develop advocacy strategies for transparent measures to combat impunity;

(b) Continue to conduct independent investigations into past and present human rights violations;

(c) Improve its efforts to better represent groups of victims and enable them to defend themselves.

3. Recommendations for the international community

98. **The independent expert recommends that the international community should:**

(a) Build the capacities of the Malian judicial system, in particular by providing it with considerable financial, technical, logistic and security-related support; this will make it possible to collect evidence of crimes committed in northern Mali by armed groups and the Malian armed forces;

(b) Assist Malian initiatives aimed at reforming the security sector;

(c) Support the efforts of humanitarian organizations and the United Nations in the regions most affected by the recent crisis;

(d) Strengthen the efforts of the human rights observers of MINUSMA and the African Union aimed at identifying past and present violations and facilitating the communication to the competent authorities of abuses reported by victims;

(e) Better coordinate and rationalize efforts being made by Mali's regional and international partners to support Malian civil society groups;

(f) Provide more resources to assist the Government of Mali in combating transnational crime.

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Report of the Independent Expert on the situation of human rights in Côte d'Ivoire, Doudou Diène

Summary

In this document the Independent Expert reports on his fifth visit to Côte d'Ivoire, from 14 to 23 October 2013. He presents a view of the human rights situation in the country since his fourth visit, thus covering the period from 4 May to 30 December 2013, in the light of his previous recommendations.

This visit took place in a context marked by important developments, including the release of about 15 detainees associated with the former President, Laurent Gbagbo, a presidential amnesty for persons convicted of minor offences and the publication of laws on sensitive topics such as nationality and rural landownership. Such questions have been the subject of numerous recommendations by the Independent Expert and other United Nations mechanisms.

The Independent Expert noted that the security situation in Côte d'Ivoire has continued to improve, but remains fragile. On the one hand, a culture of violence persists and a large number of former combatants have yet to benefit from the disarmament, demobilization and reintegration programme. On the other hand, in some regions, dozo groups have continued to replace the State in its sovereign role of providing for security.

The Independent Expert noted with concern that despite the establishment of the permanent framework for dialogue, the political dialogue is still deadlocked. The most worrisome sign of this is the return to the partisan and polarizing verbal invective that characterized the pre- and post-election crisis. In the run-up to the 2015 presidential elections and with the kind of electioneering the country has seen, such trends could leave any progress made in the past two years in establishing democratic institutions devoid of any meaning. A moral resurgence on the part of the country's political leaders is urgently needed; they must take bold and meaningful political initiatives to resuscitate the political dialogue and establish the conditions required for peaceful and democratically credible presidential elections. The recent resumption of contacts between the Government and the Front Populaire Ivoirien (Ivorian Popular Front) (FPI) should not aim merely to "cool

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things down" for the elections, but to create conditions conducive not only to profound and lasting national reconciliation, but also to the joint eradication of the root causes of the crisis and the establishment of a pluralist and inclusive democracy. The Independent Expert considers that profound and lasting national reconciliation can only be the result of a collective effort on the part not only of the institutions that emerged from the crisis, such as the Dialogue, Truth and Reconciliation Commission and the National Programme for Social Cohesion, but also of politicians, civil society organizations and community and religious leaders. He calls for the renewal of the mandate of the Dialogue, Truth and Reconciliation Commission and for a better focus of its activities.

The Independent Expert expressed his profound concern regarding the increase in sexual violence in Côte d'Ivoire. He is concerned that such acts have become trivialized. Although they should be heard by full-fledged criminal courts, such acts are still being handled by lesser courts, as the criminal courts have not been holding sessions.

The Independent Expert should like to state once again that he is convinced that the questions of impunity and equitable justice are central to national reconciliation, democratic reconstruction and the promotion of human rights. Despite the extraordinary rebuilding of institutions in the judiciary and the high quality of judges whom the Independent Expert was able to meet, justice is still perceived as being asymmetric. That perception is fuelled by the fact that so far, persons responsible for human rights violations have only been prosecuted if they were associated with the former regime, both by the national courts and by the international criminal justice system. The Independent Expert also requests the authorities to regularize the situation of persons detained at the National Surveillance Directorate.

The Independent Expert underscores the urgent need to give the highest priority to the serious situation of the victims of the long crisis in Côte d'Ivoire, so as to ensure that they are not sacrificed in the name of political expediency. To draw attention to this problem, he has organized a conference to be held in February 2014.

The Independent Expert calls for economic and social rights to be better taken into consideration, and specifically for them to be effectively realized in the context of the country's outstanding macroeconomic growth. This report will be updated with an oral presentation by the Independent Expert at the twenty-fifth session.

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I. Introduction

1. This report is being submitted in accordance with resolution 23/22 of the Human Rights Council, which renewed the mandate of the Independent Expert for one year and requested that he submit his report to the Council's twenty-fifth session and his recommendations to the twenty-sixth session.

2. The report provides an update on the human rights situation in Côte d'Ivoire between May and December 2013. It is based on information collected from the authorities, United Nations system agencies, national and international non-governmental organizations, political figures and certain detainees. The Independent Expert would like to express his thanks to the Ivorian Government, which facilitated his visit and his meetings with the national and local authorities. The Independent Expert met the president of the Constitutional Council, the Minister of State for Foreign Affairs, the Minister of Justice, Human Rights and Civil Liberties, the Minister of State for Internal Affairs and Security, the Minister of National Education and Technical Training, the Minister of Health and the Fight against AIDS, the Minister for Solidarity, Family, Women and Children, the Minister for Defence at the Office of the President and the First Vice-President of the National Assembly.

3. The Independent Expert also met with the head of the military chiefs of staff, the president of the Dialogue, Truth and Reconciliation Commission, the coordinator of the National Social Cohesion Programme, the president of the National Human Rights Commission of Côte d'Ivoire, the prosecutor-general for the Abidjan Appeals Court, the state prosecutor for the first instance court of Abidjan, the senior investigating judge, the military prosecutor of the military court, the chief of the Disarmament, Demobilization and Reintegration Authority, the head of the Operational Decisions Coordination Centre, the National Press Council and the president of the Independent Electoral Commission. The level of cooperation with these officials was greatly appreciated.

4. The Independent Expert also met the Special Representative of the Secretary-General for Côte d'Ivoire and her deputy, as well as representatives of the various components of the United Nations Operation in Côte d'Ivoire (UNOCI).

5. The Independent Expert held meetings with the country's technical and financial partners, including those from the United Nations system and several diplomatic missions, and specifically those of the European Union, Canada, France, the United States of America and Senegal.

6. The Independent Expert would like to express his gratitude to the head of the UNOCI Human Rights Division who, as in previous missions, made his team available and provided technical support and information that proved instrumental in ensuring the success of the mission and in producing this report.

7. As in his previous missions, the Independent Expert visited Odienné, where he met Simone Gbagbo, the wife of the former President, Laurent Gbagbo. He also visited the Abidjan Detention and Correction Centre and the Abidjan Military Detention Centre, and he was able to hold interviews with Charles Blé Goudé, Jean-Noël Abéhi and Jean-Yves Dibopieu.

8. He also held interviews with Pascal Affi N'Guessan, the former Prime Minister and Secretary-General of the Front Populaire Ivoirien (Ivorian Popular Front) (FPI), who had recently been released on bail, and with the Secretary-General of the Rassemblement des Républicains de Côte d'Ivoire (Republican Rally of Côte d'Ivoire) (RDR). He was unable, despite his wish to do so, to meet with representatives of the Democratic Party of Côte

d'Ivoire and another political party, Liberté et Démocratie pour la République (Freedom and Democracy for the Republic) (LIDER).

9. During this visit the Independent Expert sought out the views of several civil society organizations, including the Convention de la société civile ivoirienne (Ivorian Civil Society Federation), the International Federation for Human Rights (FIDH), the Mouvement ivoirien des droits de l'homme (Ivorian Movement for Human Rights) (MIDH), the Ligue ivoirienne des droits de l'homme (Ivorian League for Human Rights) (LIDHO), Amnesty International, the Federation of Free Trade Unions of Côte d'Ivoire, Bien-être des albinos de Côte d'Ivoire (Albinos Welfare of Côte d'Ivoire) (BEDACI) and women's and victims' rights organizations.

II. Recent developments: institutional, political and security trends

A. Rebuilding of State institutions

10. The Independent Expert welcomes the gradual establishment of democratic institutions in the Republic of Côte d'Ivoire. A human rights commission has been set up and its members have been named, and the main State bodies are being restored throughout the country. The adoption by the National Assembly on 23 August 2013 of three laws on nationality, statelessness and rural land holdings, along with the Government's adoption of a bill on human rights defenders, are positive signs of the institutional change under way. The restoration of the Constitutional Council and the parliament testify to the same trend. The Independent Expert expresses the hope that institutional and legal arrangements made between the branches of the State will respect the fundamental principles inherent to the functioning of a democratic State based on the rule of law. The current consolidation of democratic institutions provides a decisive step forward towards democratic reconstruction and an essential foundation for lasting political normalization in the institutions of Côte d'Ivoire.

B. Political dialogue

11. The release pending trial of 14 people who were arrested after the post-election crisis, including the former Prime Minister and Secretary-General of the Front Populaire Ivoirien (FPI), Pascal Affi N'Guessan, and Michel Gbagbo, the son of former President Laurent Gbagbo, and the recent resumption of direct talks between the Government and the FPI offer encouraging signs.

12. The Independent Expert notes the presentation by the FPI of a paper on the Etats-généraux de la République, or national consultations, aimed inter alia at "building a new consensus of reconciliation to bring peace and stability to the country".[1]

13. The Independent Expert welcomes the expressed desire of both sides to engage in dialogue on the major questions related to the life of the country. He calls upon them to consider as non-negotiable the prosecution of perpetrators of serious human rights violations committed by any party, consideration of the situation of the victims in the

[1] La réconciliation nationale en Côte d'Ivoire, Dialogue politique et Etats-généraux de la République – Termes de référence, (National reconciliation in Côte d'Ivoire, Political dialogue and national consultations – Terms of reference), Front populaire ivoirien, 30 October 2013, p. 28.

reconciliation process and the permanent nature of State institutions. If there is to be a resurgence of a dialogue in Côte d'Ivoire, the fundamental institutional problems that resulted from the elections must be resolved. In particular, consensus must be reached on the mapping of electoral districts, on voters' lists and on the composition of the Independent Electoral Commission.

14. The success of the municipal elections of April 2013 is a major sign of a return to democracy. The next presidential elections will have to confirm this trend. Yet in the run-up to the 2015 elections, the political climate is characterized by a surge of polarization. The Independent Expert should like to warn against the temptation to engage in short-term electioneering aimed solely at taking or maintaining power, to the detriment of the fundamental interests of the Ivorian people: reconciliation, coexistence and shared and lasting prosperity.

C. National reconciliation process

15. The Independent Expert should like to emphasize that there is an urgent need to breathe new life and energy into the national reconciliation process, in particular by involving political figures, civil society and the bodies that emerged following the crisis, including the Dialogue, Truth and Reconciliation Commission and the National Programme for Social Cohesion. In the light of the long and painful history of the crisis, national reconciliation is all the more important to ensure that the elections of 2015 have democratic legitimacy and are held in a peaceful context. To counter the culture of violence, voting must be the sole democratic framework for competition and opposition. Cooperation among political leaders must go hand in hand with and tap the energy of reconciliation efforts and initiatives taken at the grass-roots level in the heart of the country by such crucial participants as local authorities, traditional and religious chiefs and local civil society organizations.

16. The Independent Expert noted that some interlocutors expressed disappointment in particular with regard to the calendar for the Dialogue, Truth and Reconciliation Commission, whose mandate expired on 28 September 2013. The Commission's midterm report to the President, submitted on 21 November 2013, highlighted how much the population was mobilized and involved in this phase of its activity, which aimed to establish a basis for truth and reconciliation by systematically setting up structures and mechanisms throughout the country. In this initial phase, the Dialogue, Truth and Reconciliation Commission established the conditions for the emergence of the three dimensions of truth, commensurate with the seriousness of the crisis in Côte D'Ivoire, as proposed by the Independent Expert in his first report: objectively and rigorously establishing the facts; identifying the perpetrators of human rights violations; and determining the root causes of such violations (A/HRC/19/72, para. 94). The acknowledged failure of most transitional justice bodies (leaving aside political arrangements and superficial shows of reconciliation), provides us with a basic lesson that the lengthy time required for lasting reconciliation is quite different from the nearsighted view of political dealings. The reconciliation process is just as important as judicial, economic and social solutions. Reconciliation matures the people's conscience, and only such maturity can bring about peace and composure in their hearts. The Independent Expert therefore calls for the renewal of the Commission's mandate so as to allow it to effectively carry out its mission. It should be able to do so in the legal and financial conditions required to ensure its independence.

17. The Government must take measures to avoid divisions between the bodies responsible for reconciliation and reparation and to promote complementary and cooperative relations between the Dialogue, Truth and Reconciliation Commission, the

National Social Cohesion Programme, the Directorate for War Victims and the National Human Rights Commission. The respective mandates of these bodies should be the subject of a political consensus and should enjoy the public and unanimous support of everyone involved in the country's political and social life.

18. The Independent Expert should like to emphasize in this context that the National Social Cohesion Programme has an important role to play in the country's reconciliation and democratic reconstruction process. He hopes the authorities will take into account the Ivorian people's traditional values and culture of tolerance and coexistence while promoting social cohesion, by involving traditional and religious chiefs in the dialogue and reconciliation process. It is through such synergy that modern human rights can be integrated into the traditional values of Ivorian society. In order to have social cohesion for national reconciliation, all communities must share their sensitivities with each other and undergo a collective catharsis, showing a maximum of concern for the situation of the victims of the crisis.

D. Community conflicts and rural land management

19. The Independent Expert welcomes the adoption on 13 September 2013 of the following laws: the Act on acquisition of nationality by declaration (Act No. 2013-653); the Act authorizing the President to ratify the Convention on the Reduction of Statelessness of 1961 (Act No. 2013-647) and the Act on the time allowed to assert customary rights to lands covered by customary law (Act No. 2013-655). These laws represent a clear break from a situation long characterized by political and ethnic manoeuvring, a genuine time bomb that had fuelled the culture of violence, eroded the values and traditions of tolerance and coexistence and undermined this country and its region, which has a long history of heavy immigration.

20. That notwithstanding, the Independent Expert should like to emphasize that such issues should be the subject of a substantive debate. They call for lasting solutions. He calls upon the country's authorities to work for a national consensus on these basic questions and to include them in the inclusive democracy and political dialogue processes.

21. In June 2013 the Government, through the Société de développement des forêts (Forest Development Corporation) (SODEFOR), carried out an eviction operation in the Niégré forest reserve (88 km from Sassandra).[2] During this operation some serious incidents were reported, including the death of three persons, ill-treatment, rapes, extortion and the destruction of property by the Forces Républicaines de Côte d'Ivoire (FRCI) and employees of SODEFOR. Over 20,000 people reportedly had to leave the forest, fleeing to villages and camps in the vicinity.

22. Since July, seven community conflicts have been reported: in Angovia (80 km from Daloa), Divo, Facobly (25 km from Man), Goya 2 (10 km from Guiglo), Nienesso (13 km from Odienné) and Odienné. Four people were reportedly killed and one injured during these conflicts. The Independent Expert is concerned about persistent conflicts between herders and farmers and draws attention to the tensions resulting from competition for access to natural resources around mines.

23. The Independent Expert notes the efforts made by the President to encourage the return of persons who left the country owing to the crisis. In particular, on 19 October 2013, President Ouattara took part in a meeting held in Zwedru, Liberia, by the Joint Council of Chiefs and Elders of the communities along the border between Liberia and Côte d'Ivoire,

[2] Another eviction operation was conducted at Mount Péko in May 2013.

and he announced the return of 16,000 Ivorian refugees by the end of 2013. The Independent Expert draws the attention of the authorities to some major issues related to the return of those who have left the country, in particular the fact that their homes have been occupied and their farms pillaged.

III. Security situation

A. Achievements and challenges

24. The Independent Expert notes an improvement in the overall security situation in the country. Since the attack in March 2013, there have been no reports of major incidents resulting from external threats. This is in particular attributable to the efforts of the authorities, who set up two new battalions (in San Pedro, in the south-west, and in Odienné, in the north) and to joint patrols carried out by UNOCI and the United Nations Mission in Liberia and which have strengthened the security forces in the cities along the Liberian border. Politically, the release of some figures from the previous regime in August 2013 has also apparently helped improve the situation.

25. The Independent Expert noted the final report of the Panel of Experts on Liberia of the United Nations Security Council, which reported the use of Liberian mercenaries by the Ivorian authorities in the border areas, as well as information according to which Ivorian officials had reportedly ordered the killing of pro-Gbagbo refugees in Ghana (S/2013/683, paras. 30 to 40). He considers that the Ivorian authorities should provide a specific response to the international community owing to the seriousness of these allegations. He has noted that the Ghanaian Government has denied these allegations.

26. Domestically, the security situation remains fragile, as protest movements composed of former fighters are pushing for the authorities to keep the promises made to them, in particular in respect of the disarmament, demobilization and reintegration programme. The situation is tenuous owing to attacks and robberies committed mainly by former fighters and dozos, and by the prevalence of weapons, a legacy of the crisis. In the Yamoussoukro area alone, three attacks were committed on 10, 12 and 15 September 2013, reportedly by dozos and former fighters. An attack on the vehicle of the director of the Disarmament, Demobilization and Reintegration Authority committed on 1 July 2013 left one gendarme dead, and it too was reportedly carried out by former fighters and dozos. Mistrust of the FRCI in certain communities is an important factor to be taken into consideration in drawing up any overall security strategy.

B. Dozos

27. Since the last visit by the Independent Expert, there have been several new reports of abuses committed by the dozos. They have carried out summary executions in Korhogo and subjected three persons suspected of committing various offences in Korhogo and San Pedro to ill-treatment.

28. The Independent Expert welcomes the publication of a report by UNOCI, in cooperation with the Office of the United Nations High Commissioner for Human Rights (OHCHR), on abuses committed by dozos in Côte d'Ivoire between March 2009 and May 2013. According to the report, during the period under consideration at least 228 people were killed, 164 were wounded by gun shots or sharp objects and 162 were illegally arrested or detained by dozos. There were also at least 274 verified and confirmed cases of looting, arson and extortion committed by dozos, in particular in the regions near San

Pedro, Nawa, Gbôklé, Gôh, Cavally, Indenie-Djuablin, Marahoué, Haut Sassandra, Tonkpi, Moronou and Guemon.[3]

29. The authorities have announced several initiatives to bring this situation under control, including awareness activities and identification of dozos, with the support of the civil registration body, the National Identification Office. The Independent Expert considers that there is an urgent need to draw up a legal framework governing the activities of dozos, applying the following principles: recognition of the status of dozo traditional culture using specific criteria, including the nomenclature of their cultural activities and the exclusive geographical limitation of their cultural activities; State oversight of the development and production of a dozo identification document, issued by recognized dozo authorities; and a commitment by the dozos to fully comply with the law and respect the exclusive authority of local and national representatives and institutions of the State.

C. Situation of former combatants

30. Several Ivorian figures and international observers consider that the issue of former combatants is a major destabilizing factor for the country, both in terms of security and for national reconciliation and social cohesion. Former combatants are increasingly involved in the most serious incidents. The vast majority are still armed and have lost their original civilian occupations; they have no work or income and are stigmatized because of their past. The Independent Expert calls upon the public and private partners of Côte d'Ivoire to do more to help the Government deal with the situation of former combatants, who represent a real risk of destabilization for the country.

31. The Independent Expert has heard persistent rumours of corruption and nepotism in the former combatant reintegration programme. He calls upon the Ivorian authorities to ensure that the process is reliable, fair and transparent. Urgent measures are required to prevent former area commanders (sometimes called *com'zones*) from giving favourable treatment to men who fought under their command, by taking the place of the Disarmament, Demobilization and Reintegration Authority or blocking its work in the disarmament, demobilization and reintegration programme. To facilitate the work of the Authority, the Government should sever the link between the former area commanders and former combatants.

D. Reform of the security sector

32. As serious human rights violations are still being committed by elements of the FRCI and dozos, and as a large number of former combatants have yet to be disarmed and consider violence as the sole solution to their predicament, the vetting of the security forces with UNOCI support would be particularly useful. The Independent Expert has noted with much hope that the head of the military chiefs of staff has expressed a commitment to prosecute those elements of the FRCI who are involved in human rights violations.

33. The Independent Expert encourages the Ivorian authorities to include intercultural education in the training of members of the military, gendarmes and police officers, so as to take into account the multi-ethnic dimension of Ivorian society, and consequently of its security forces.

[3] Report on human rights abuses committed by dozos in the Republic of Côte d'Ivoire, UNOCI, June 2013, para. 35. Available (in French) at: www.ohchr.org/Documents/Countries/CI/CIRapportDozos.docx.

IV. Functioning of the justice system

A. Combating impunity, equitable justice

34. The release, pending trial, in August 2013 of 14 persons associated with the former regime is a particularly important step that promotes political dialogue and national reconciliation. The presidential amnesty granted to approximately 3,000 persons convicted of minor offences will foster healing in Ivorian society and helps to relieve crowding at places of detention. This decision must, however, be accompanied by urgent social measures to lessen its social and economic impact.

35. The Independent Expert remains concerned about the calendar for trials currently under way. Seeking truth and combating impunity must be the core priorities for the courts. Ensuring equitable justice means that the justice system must be able to complete the judicial procedures now under way and to initiate cases against both sides, as recommended by the International Conference on Impunity and Equitable Justice in Côte d'Ivoire, held in Yamoussoukro in February 2013. On 10 July 2013 the indictment division issued a decision concerning 84 defendants associated with the former President, Laurent Gbagbo, but no one close to the current Government has been prosecuted for acts committed during the post-election crisis, although according to the report of the National Commission of Inquiry, such persons were allegedly responsible for the deaths of over 500 people. The authorities present only the arrest of Amadé Ouérémi, for the events at Mount Péko, in Duékoué,[4] as a sign of balance in the current list of prosecutions. The investigating judge responsible for that case has been transferred to a position as a temporary prosecutor in Bouaké.

36. In this connection, the Independent Expert should like to reiterate his concern about the impact that the rotation of judges has had on the cases currently under way. The independence of judges is enshrined in the Constitution, specifically in article 103, which sets out that "in the performance of their duties, judges shall not be subject to anything other than the authority of the law". All those who committed serious human rights violations must be prosecuted, whatever their ethnic origin or political affiliation may be.

37. The Independent Expert should like once again to express his concern about the slow pace of the justice system, in particular for cases of high-profile, serious human rights violations such as the Nahibly massacres and the mass grave at Torgueï. He notes that the exhumation operations for persons killed during the crisis in Yopougon have ended. Despite these operations, undertaken with the support of UNOCI, there has still been no follow-up by the justice system.

38. The Independent Expert notes the decision by the Ligue ivoirienne des droits de l'homme (Ivorian League for Human Rights) (LIDHO) and the International Federation for Human Rights (FIDH) to press charges before the International Criminal Court in the trial currently under way against the former President, Laurent Gbagbo, et al., and before the Ivorian courts for the events that took place in Nahibly. The Independent Expert encourages those organizations to see such procedures through so as to make the voices of the victims of human rights violations heard more clearly.

39. The fact that persons allegedly involved in human rights violations are now in high positions of political power and in charge of security questions has prompted Ivorian and international human rights organizations to raise legitimate questions about the possibility

[4] Communiqué from the Ministry of State for Internal Affairs and Security, available (in French) at: www.addr.ci/communique1.php?PHPSESSID=ro5v437q58ll248b9vc6g6l7q4.

of obstruction of justice. The Independent Expert calls for the adoption of a special law on the protection of victims and witnesses.

40. The judges and human rights organizations that the Independent Expert held meetings with unanimously recognized the need to extend the mandate of the special investigation unit (CSE), scheduled to conclude in December 2013. The Independent Expert noted that the Minister of Justice, Human Rights and Civil Liberties held the opposite view, arguing that "the CSE has lost its purpose, as it was set up as a substitute for normal institutions, not to exist alongside them. The unit is a legal anomaly." In view of the complex nature of the legal procedures under way, the positive results already achieved and the familiarity of the unit's investigating judges with the cases they have handled, the Independent Expert calls upon the Government not only to take steps to renew the unit's mandate, but also to provide it with additional means to expedite its work. Retaining the CSE will add credibility to the Government's commitment to fighting impunity and promoting equitable justice.

41. The Independent Expert calls on the authorities to take steps to speed up judicial procedures against persons whose property has been frozen so as to allow for their maintenance and for that of their families, without prejudicing the rights of victims, based on the principle of combating impunity and promoting equitable justice.

B. Military justice

42. Only two military trials have been completed: the trial of General Bruno Dogbo Blé and four of his subordinates, which finished in October 2012, and the trial of four members of the military who were convicted of murdering Mamadou Idy, a Nigerian soldier serving in UNOCI, which finished in December 2012.

43. The Independent Expert is concerned about the lack of compliance of military justice procedures with international standards. The Code of Military Procedure dates back to 1974 and has never been amended. The Independent Expert encourages the Ivorian authorities to undertake the reforms required in terms of standards and structures to ensure that military justice is equitable. The Independent Expert wishes to commend the professionalism of the military prosecutor's cooperation with him during the visit.

C. Interaction between the international and national justice systems

44. The Independent Expert notes that there is good cooperation between the Ivorian justice system and the International Criminal Court, in particular with respect to the sharing of information.

45. At a session held on 3 June 2013, Pre-Trial Chamber I of the International Criminal Court requested the prosecutor to submit new elements so as to allow it to rule on the confirmation of charges against Laurent Gbagbo by January 2014.[5] Meeting in the Council of Ministers on 20 September 2013, the Government decided to submit a request for inadmissibility to the Court and to postpone execution of the arrest warrant issued by the Court for Simone Gbagbo.

[5] Situation in the Republic of Côte d'Ivoire, *the Prosecutor v. Laurent Gbagbo*, International Criminal Court, decision No. ICC-02/11-01/11 of 3 June 2013, available at the following address: http://www.icc-cpi.int/iccdocs/doc/doc1599831.pdf.

46. While recognizing the right of Côte d'Ivoire to assert the primacy of its courts in accordance with the principle of complementarity, the Independent Expert would like to draw attention to the problems that will inherently arise in the Ivorian justice system owing to this decision, in particular in relation with the full treatment of the cases that the International Criminal Court must handle in the country. The Ivorian system of justice has been left in disarray by the lengthy political crisis and a series of problems of substance and procedure, and also by difficulties that left it materially and logistically debilitated. The disconnect between the legal framework and the offences in question, the failure of criminal courts to hold regular sessions, the legal void for the protection of victims and witnesses and the still all too clear polarization of Ivorian society all objectively are issues that must be addressed in order to meet the standards for a fair and equitable trial.

47. If the request of Côte d'Ivoire to try Ms. Gbagbo is allowed by the International Criminal Court, the Independent Expert would call on the international community to support the Ivorian authorities, in particular by strengthening the capacities of the judges and judicial staff, by providing material and logistic support to the prosecution services and courts and by assisting with the protection of victims, witnesses and judges.

48. The Independent Expert notes that the arrest warrant for Charles Blé Goudé, the third such warrant issued by the International Criminal Court for Gbagbo supporters,[6] has strengthened the perception of bias in the administration of justice. The Independent Expert reaffirms his trust in the Court's will to do away with this perception and to confirm the equity of international justice by prosecuting all those who have perpetrated crimes under its jurisdiction, whatever their political or other affiliations may be.

V. Violations of the rights of specific groups

A. Situation of victims

49. In the current context of political polarization in the run-up to the elections, the Independent Expert fears that the situation of the victims of the overall crisis, and specifically of the post-election crisis, will be given short shrift and passed over.

50. The Independent Expert insists on the need to better address the needs of the victims of the crisis with an objective global approach based not on the status of those who committed violations, but on the inclusion of all victims, in the light of the acts committed and the persons affected, without distinction as to their politics, ethnic origin or religion. To foster such an approach and encourage the objective treatment of victims of the crisis, the Independent Expert is holding an international conference on the situation of victims of the Ivorian conference in February 2014, in partnership with the National Human Rights Commission of Côte d'Ivoire.

B. Continuing human rights violations committed by the Forces républicaines de Côte d'Ivoire (FRCI)

51. The Independent Expert has been informed that the FRCI are continuing to commit human rights violations, including violations of the right to life, arbitrary arrest and

[6] See the site of the International Criminal Court, Situation in the Republic of Côte d'Ivoire (http://www.icc-cpi.int/en_menus/icc/situations%20and%20cases/Pages/situations%20and%20cases.aspx).

detention, forced disappearance, torture and ill-treatment and sexual violence. He notes with concern that only a limited number of FRCI members involved in human rights violations have been arrested and prosecuted. Some have reportedly been involved in roadblocks, brigandage and ransom-taking and in associated violence, and apparently only a few have been subjected to disciplinary action.

C. Situation of detainees

52. On 5 August 2013 the indictment division of the court of appeal released, pending trial, 14 persons detained since the post-election crisis. Indictments for eight have already been confirmed[7] and the six others are awaiting hearings for confirmation of the indictments.[8] Presidential decree 2013-663 of 20 September 2013 is currently being implemented and provides an amnesty for nearly 3,000 prisoners convicted of minor crimes and offences. The decree is in line with a recommendation issued by the Independent Expert. Its implementation should make it possible to relieve overcrowding at certain prisons and to thus improve conditions of detention of other prisoners.

53. An improvement is required in the conditions of detention at Ivorian prisons, both in terms of administrative management and in relation to the material conditions of prisoners. The lack of means made available to prison staff jeopardizes their own safety and also that of the prisoners; two prison breaks took place at the Abidjan Detention and Correction Centre on 23 and 24 July and on 14 September 2013, and as a result 3 persons died and 21 persons were wounded. The problem of the separation of accused and convicted persons has yet to be resolved.

54. At the enlisted men's cells at the Abidjan Military Detention Centre, the Independent Expert saw overcrowding that violated acceptable international standards. The unhealthy conditions, lack of care and small size of the cells constitute cruel, inhuman and degrading treatment. In the officers' cells, the situation is more or less acceptable, with normal density and hygiene. The officers are sometimes held for over two years without being sentenced; several have been charged with the generic offence of breaching State security.

55. According to the information received by the Independent Expert, conditions of detention are extremely serious at the Compagnie territoriale de Korhogo, a military unit. Even civilians are detained by the unit, although it is not a legal place of detention.

56. The Independent Expert notes with concern the legal confusion surrounding the situation of Seka Yapo Anselme, also known as Seka Seka, Charles Blé Goudé, Jean-Yves Dibopieu, Amadé Ouérémi, Youssouf Koné and Commander Jean-Noël Abéhi, who are being held in incommunicado detention. He was able to hold an interview with Jean-Noël Abéhi, who has been charged in connection with the massacre of women in Abobo; with Jean-Yves Dibopieu, the former Secretary-General of the Fédération estudiantine et scolaire de Côte d'Ivoire (the students' federation, FESCI), who was arrested with Jean-Noël Abéhi on 4 February 2013; and with the former leader of the young patriots, Charles Blé Goudé. The persons in question do not receive visits from their families and are allowed to see their lawyers for only a few minutes before attending hearings. Even when visitors can present authorizations issued by a court, they have difficulty visiting them.

[7] Pascal Affi N'Guessan, Michel Gbagbo, Aboudramane Sangaré, Narcisse Téa Kuyo, Geneviève Bro Grébé, Séka Obodji, Soukouri Bohui and Henri-Philippe Dakoury Tabley.

[8] Justin Koua, Alcide Djédjé, Moïse Lida Kouassi, Alphonse Douaty, Colonel Konandi Kouakou and Nomel Djro.

57. The Independent Expert was told that it was justified to hold these detainees at their place of detention because of the sensitive nature of the persons involved, in the interests of justice, and also to provide better security. The Independent Expert also requests that the authorities regularize the situation of persons detained by the National Surveillance Directorate.

58. The Independent Expert should like to recall that in the handling of cases of persons imprisoned for human rights violations, the interests of the victims may be jeopardized when there are serious procedural problems, as when the authorities are obliged to cancel an arrest warrant owing to a failure to meet requirements of form. Such situations lead to uncertainty in the scheduling of the rest of the proceedings. The need to defend the rights of detainees must not eclipse the need to respect the rights of the victims, who are awaiting justice and reparation.

D. Case of Simone Gbagbo

59. During her meeting with the Independent Expert at Odienné, where she was under house arrest, Simone Gbagbo, the former first lady, complained about her conditions of detention and about her transfer from the Sainte Anne-Marie international clinic (PISAM) to Odienné in May 2013, before her medical treatment was completed. Ms. Gbagbo said that she still required more medical care, including kinesitherapy sessions and ophthalmological consultations, which were not available in Odienné. When asked by the Independent Expert about this case, the Ivorian authorities explained that Ms. Gbagbo had been transferred from the PISAM clinic to Odienné because of unrest and demonstrations and to ensure her own safety.

60. Ms. Gbagbo told the Independent Expert that following her transfer to Odienné she had lost consciousness on several occasions owing to her poor health. She once again complained of the conditions of detention, the violation of her right to receive care, the lack of specialists to follow her case and the freezing of her assets, which made it impossible for her to cover her medical expenses.

61. The Independent Expert has consistently emphasized in all his reports that the detention for over 2 years of persons held in connection with the post-election crisis is against international law. He has thus always called for them to be judged or released, if only pending their trial. The release pending trial of 14 such detainees would thus appear to be a step in the right direction. That measure should be generalized, not only to promote national reconciliation, but also to allow the national and international justice systems to take positions on their cases in conditions in which their rights are clearly respected. The Independent Expert, firmly convinced that impartial and equitable justice is a decisive factor for lasting national reconciliation, has at the same time argued for a determined campaign against impunity and pointed to the fact that a general amnesty for the perpetrators of serious human rights violations is contrary to international law. Based on these considerations, he considers that Côte d'Ivoire, which has decided in accordance with the Rome Statute to postpone execution of the arrest warrant issued by the International Criminal Court and to try Ms. Gbagbo in the national courts, should provide her with sufficiently safe conditions and proper medical care.

E. Situation of albinos

62. The organization Bien-être des albinos de Côte d'Ivoire (Albinos Welfare of Côte d'Ivoire) (BEDACI) informed the Independent Expert of the various problems encountered by some 4,000 Ivorian albinos who face social and cultural rejection. BEDACI complained

that ill-treatment of albinos had become commonplace and widespread, with several cases of kidnapping reported. According to BEDACI, a woman sentenced to 5 years of prison for kidnapping albinos was reportedly released after 8 months.

63. The dropout rate was higher for albinos than for the rest of the population, in particular owing to stigmatization and vision problems. Eighty per cent of albinos were from poor families. The Independent Expert noted, however, that Côte d'Ivoire on 21 June 2013 adopted a law for the ratification of the Convention on the Rights of Persons with Disabilities. He hopes that specific measures will be adopted to take into account the specific needs of albinos in respect of health, education and access to the labour market, in accordance with Human Rights Council resolution 23/13 of 13 June 2013 on attacks and discrimination against persons with albinism.

F. Persistence of sexual violence

64. The Independent Expert is increasingly concerned about the high prevalence of sexual violence in Côte d'Ivoire, all the more so as many cases of rape are attributable to civilians or close relatives, FRCI members, unidentified armed men or teachers. Since the beginning of July, reports of acts of sexual violence against young girls have continued, above all in the Bouaké region and in the western part of the country.

65. The Independent Expert was informed that forced marriage and female genital mutilation were continuing. UNOCI told the Independent Expert that between 1 May and 30 September 2013 at least 168 cases of rape, 94 cases of female genital mutilation, 8 forced marriages and 36 cases of child labour trafficking had been registered.

66. The Independent Expert should like to recall that over and above the legal decisions already taken to combat female genital mutilation, a genuine cultural and legal awareness campaign, conducted in close cooperation with traditional and religious chiefs, will be required to combat the problem.

67. The Independent Expert reaffirms the concerns raised in his previous report (A/HRC/23/38), in particular in paragraph 53, about the practice of some criminal investigation officers who demand that rape victims produce a medical certificate as a condition for taking their complaints. The Independent Expert hopes that the reforms in the Criminal Code and the Code of Criminal Procedure reshaping the criminal courts will make it possible for rape to be addressed as a distinct crime in its own right.

68. The Independent Expert is deeply concerned about rape in schools, for which, even when the perpetrators confess, the authorities have been unable to impose appropriate penalties capable of restoring the rights of the victims. The Minister of Education provided information on criminal and disciplinary measures taken against the perpetrators of such acts.

G. Freedom of association and assembly

69. The Independent Expert notes with satisfaction that a preliminary bill is being drafted for the protection of human rights defenders. The authorities should do everything possible so that the bill will be the subject of a broad discussion with human rights organizations before it is adopted by the parliament.

70. During the second quarter of 2013 demonstrations by the youth branch of the main opposition party, the Front Populaire Ivoirien (Ivorian Popular Front) (FPI), were banned, but in the third quarter of 2013 some activities of the FPI resumed, with rallying and campaigning organized by its president, who had recently been released pending trial. On

the other hand, on 1 October 2013 young protesters who were outraged about the high cost of living hoped to hold a demonstration; they were arrested and imprisoned.

71. The Independent Expert reiterates the observations made in his previous report (A/HRC/23/38, para. 22) about the Government's interference in the way the Convention de la société civile ivoirienne (Ivorian Civil Society Federation) organizes its own affairs.

VI. Economic and social rights

A. Fragile social and economic situation

72. The Independent Expert was informed of macroeconomic measures taken by the Government and the announcement of a 10 per cent growth rate in 2014.[9] The Independent Expert reaffirms his hope that such macroeconomic performance will benefit all the people of Côte d'Ivoire. The cancellation by France of 64 per cent of the foreign debt of Côte d'Ivoire, including 14 per cent as pure debt cancellation and 50 per cent in debt relief, sets an example for the various partners of the country.

73. There is a palpable feeling of social and economic insecurity in the country. The resulting social issues may give rise to political destabilization, a weakening of social cohesion and a slowing down of national reconciliation. The Independent Expert notes that the Government is attempting to address the problems resulting from the rising cost of living by "improving the availability of common consumer goods, increasing domestic production and improving the effectiveness of competition".

B. Right to education

74. Throughout the Ivorian crisis, the country's schools and universities were transformed into partisan and polarizing political tools and became battlegrounds where the violence resounded in all its forms. Educational institutions, as places symbolic of youth, are thus at the very core of the moral, intellectual and economic revival of Côte d'Ivoire. The Government quite rightly says that it gives high priority to rehabilitating and rebuilding the education system. However, in the light of the serious crisis the country has been through, education must not only transmit knowledge and skills, but also human values, with particular attention to intercultural education and to teaching coexistence. The Government took some steps in the right direction when it decided to give linguistic diversity a place of importance in schools and to take students at Islamic schools as well into account in its administration of the education system.

75. The Minister of Education has noted that the country's schools face many problems, including excessively large class sizes and a lack of furniture and teachers. Thanks to initiatives taken to train teachers, improve governance in the education system, enrol all children lacking birth certificates and step up the enrolment of young girls, the gross enrolment rate reportedly rose from 80 per cent in 2010 to about 91 per cent in 2013 at the primary and preschool levels and from 32 per cent to 37 per cent at secondary schools.

76. The Independent Expert encourages the authorities to provide human rights training and further training to teachers, so as to ensure the effectiveness and quality of such teaching.

[9] See the press conference of Prime Minister Daniel Kablan Duncan, 5 September 2013, available (in French) at the following address: www.gouv.ci/actualite_1.php?recordID=3808.

C. Right to health

77. The Ivorian Government proclaimed 2013 the "Year of Health". The Minister of Health informed the Independent Expert that universal medical care coverage had been launched as from December 2013 and that the University Hospital Centre of Côte d'Ivoire had been refurbished. The Independent Expert was informed that the country's HIV seroprevalence rate had fallen to 3.7 per cent. He calls on the authorities to ensure better access to health facilities, which are often too far from the people who need them.

VII. Institution building for the protection of human rights

A. Commitments of the international community in Côte d'Ivoire

78. The Independent Expert welcomes the adoption of Security Council resolution 2112 (2013), which extended the mandate of UNOCI and called for it to concentrate on the improvement of the political environment, security and access to all human rights as its main lines of activity. While recognizing that, as mentioned in the resolution, substantial progress has been made in respect of security and human rights, the Independent Expert calls upon the international community to take into consideration the fragility of the current context, in particular in the run-up to the presidential elections of 2015, pending a genuine consolidation of democratic institutions.

79. The Independent Expert should like to once again express his appreciation of the support provided by UNOCI to the Government of Côte d'Ivoire in strengthening the rule of law, in particular by reforming the prison system, by training security and defence forces in international human rights law and humanitarian law, by supporting the Dialogue, Truth and Reconciliation Commission and the National Human Rights Commission and by providing technical training and supervision for non-governmental organizations presenting reports under the universal periodic review mechanism.

B. International commitments of Côte d'Ivoire in the field of human rights

80. The Independent Expert notes with satisfaction that the Government has declared that it recognizes the possibility of filing individual complaints with the African Court on Human and Peoples' Rights and has ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol). Côte d'Ivoire acceded to the Convention on the Rights of Persons with Disabilities on 21 June 2013 and to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness on 3 October 2013.

C. National Human Rights Commission of Côte d'Ivoire

81. The establishment of the National Human Rights Commission of Côte d'Ivoire provides tangible evidence of institutional progress in the field of human rights in the country. However, the Independent Expert notes that the law relating to the Commission places it operationally under the aegis of the Ministry of Justice, Human Rights and Civil Liberties. As a result, the perception of the Commission's status is tainted, as its budget falls under the Financial Affairs Directorate of the Ministry of Justice. The Commission is thus in a hybrid situation, lacking a clear identity.

82. The Independent Expert is concerned about the fact that the Ministry has excessive administrative control over the Commission. The Ministry sets the salary and compensation levels and in-kind benefits of the Commission's officers (art. 25), determines allowances for the Commission's sessions (art. 35) and adopts the Commission's budget (art. 38). The Independent Expert calls for the Commission to be given the human and material resources required for it to carry out its mission and to ensure its independence in accordance with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (the Paris Principles) (General Assembly resolution 48/134 of 20 December 1993, annex). The law establishing the National Human Rights Commission should be reconsidered.

VIII. Conclusions

83. **Building democracy takes time. Côte d'Ivoire has made remarkable progress in the field of State governance and in macroeconomic management, and this will eventually no doubt have a positive impact on employment and socioeconomic conditions. In respect of the security situation, notwithstanding the arms embargo, the country has been able to significantly reduce external attacks, although the sluggish pace of disarmament, demobilization and reintegration remains a cause for concern. Progress has also been weak on issues such as the question of equitable justice and the persistence of problems related to landownership, the return of Ivorians from exile and nationality.**

84. **The Independent Expert notes with concern that, despite the establishment of the permanent framework for dialogue and sporadic contacts between political figures, the seeds of social fragmentation and political polarization are still there. The decision by the United Nations Security Council to consider reducing the staff of UNOCI should take into consideration the fragility of the situation, marked by unresolved problems that have historically lain at the core of the political and social crisis in the country. Côte d'Ivoire will not be safe from violent social and political confrontation unless all its political figures assume sufficient responsibility for establishing a genuine democratic culture built on tolerance, mutual respect and comprehension and the primacy of the higher interests of the country's long-suffering people. Along these lines, priority must be given to democratically and consensually reforming the Independent Electoral Commission and the electoral rolls, to establishing a legal status for the political opposition and for its activities and to strengthening the institutions of government.**

85. **The political dialogue under way between the opposition and the authorities must be fuelled and fortified by a moral catharsis. Political figures must show repentance for and public recognition of their historic responsibility for the deep-seated causes of the long crisis the country has had to endure. In this spirit, one major test to be addressed right away is how to do away with a political dialogue marked by verbal violence, political polarization and partisan stigmatization. Political dialogue should serve as a basis for teaching democracy within one's own political base and also for the population at large.**

86. **The authorities should take stock of the slow pace of national reconciliation and turn to the cultural and ethical heritage of coexistence among the country's communities, who have progressed beyond the official reconciliation that has been undertaken by the Government. The effort to achieve Ivorian social cohesion must be fed by local initiatives taken by the country's communities. The extension of the mandate of the Dialogue, Truth and Reconciliation Commission, with its activities more coherently directed and focused on the public inquiries and hearings phase,**

should be part of this process. The Independent Expert continues to believe that coherence, complementarity and coordination among reconciliation and social cohesion bodies are prerequisite conditions if the overall national effort is to succeed.

87. Efforts at political dialogue and the national reconciliation process must not be tainted by tactical or electoral manoeuvring in a political context that neglects the higher interests of the Ivorian people. They must go hand in hand with the struggle against impunity, the promotion of equitable justice and the central importance that must be given to the situation of victims. In this context, promoting a vigorous, independent and well-resourced civil society is indispensible in order to break open the closed circle of the country's politics.

IX. Recommendations

88. The Independent Expert recommends that the Ivorian Government:

(a) Combat impunity

(i) Prosecute members of the Forces républicaines de Côte d'Ivoire (FRCI) responsible for ill-treatment of the population and undertake, with the United Nations Operation in Côte d'Ivoire (UNOCI), more rigorous vetting of members of the security and defence forces;

(ii) Prosecute all perpetrators of serious crimes, regardless of their status or ethnic, religious or political affiliation, and step up judicial procedures relating to the massacre at Nahibly and the mass grave at Torgueï;

(iii) Rule out the use of general amnesty laws in the political negotiations under way, in particular for international crimes such as genocide, crimes against humanity and war crimes, which are not subject to statutory limitation;

(iv) Undertake reform of the justice system, taking into consideration specifically: (i) the recasting of the Criminal Code and the Code of Criminal Procedure; (ii) the establishment of legal and institutional mechanisms to protect victims, witnesses, judges, lawyers and human rights defenders; and (iii) the reform of the military justice system;

(v) Extend the mandate of the special investigation unit (CSE) so that it can handle the cases currently under way more expeditiously and even so that it can consider cases as far back as 2002, concentrating its activities on the most serious human rights violations;

(vi) Expedite the trial or release of persons detained for more than 2 years as a result of the post-election crisis, in particular by making use of information in the report of the National Commission of Inquiry and by working to ensure that criminal courts hold regular sessions;

(vii) Strengthen the independence of judicial officers (judges and prosecutors) and provide the justice system with the means required to effectively carry out its mission;

(viii) Draw up a robust policy to combat sexual violence, including the issuance of medical certificates free of charge, legal and psychological assistance for victims, prevention of such acts and punishment of perpetrators;

(ix) Continue cooperation with the International Criminal Court, in particular by exchanging information and ensuring complementarity, in the interests of proper, impartial and equitable justice.

(b) Victims

(i) Emphasize the central importance of the situation and expectations of victims, without political or ethnic discrimination, by giving visibility and substance to their right to effective, accessible remedies, including reparation for harm suffered, and also to the right of the accused to a just and fair trial;

(ii) Establish a genuine policy for the provision of care to victims, in particular through medical and psychological assistance programmes, financial compensation and legal and social reparation.

(c) Situation of detainees

Improve conditions of detention at prisons by making available to prison staff the means required for them to carry out their tasks and by ensuring more decent living conditions for detainees.

(d) Transitional justice process

(i) Extend the mandate of the Dialogue, Truth and Reconciliation Commission to allow it to move ahead to the dynamic phase of its inquiries, with public hearings and proposals for reparation for victims, bringing its work into line with that of the National Programme for Social Cohesion, with the provision of sufficient means of operation;

(ii) Promote better public awareness of the specific mandates, missions and activities of the various national bodies combating impunity and working for transitional justice.

(e) Security

(i) Take strong steps for a coherent disarmament strategy while stepping up the pace of reintegration of former combatants;

(ii) Resolve the problem of interference by dozos in security operations, specifically by adopting legislation to: (i) legally recognize the cultural role of dozos; (ii) identify them; (iii) confine them to their specific territorial areas; and (iv) ensure that they submit to the authority of the State and comply with the law;

(iii) Include intercultural education in the training of members of the military, gendarmes and police officers.

(f) National Human Rights Commission

(i) Provide the Commission with the material and human resources that it needs in order to function;

(ii) Hold consultations with a view to amending the law establishing the Commission so as to bring it into line with the Paris Principles in respect of the Commission's mandate, composition, organization, functioning, independence and means.

(g) Political dialogue and democratic reconstruction

(i) Consolidate the democratic dynamic currently under way, in particular by continuing the inter-Ivorian dialogue, reforming the Independent Electoral Commission and electoral rolls and establishing a legal status for the political opposition, so as to create conditions conducive to the peaceful and democratically credible holding of the 2015 presidential elections;

(ii) Hold broader consultations on questions related to land tenure and nationality among all parts of Ivorian society;

(iii) Ensure that remedial measures are taken to reduce the social impact of evictions from forest reserves;

(iv) Accompany calls for the return of exiled persons with specific measures allowing them to repossess their property and for their protection and socioeconomic reintegration;

(v) Take into consideration the vital needs of the population, in particular women and children, in public policy decisions;

(vi) Continue working in cooperation with United Nations human rights bodies and increase the pace of ratification of the relevant human rights instruments.

89. **The Independent Expert recommends that the international community:**

(a) Consolidate its commitment to Côte d'Ivoire by (i) providing essential support for the dialogue currently under way; (ii) substantially strengthening the disarmament, demobilization and reintegration programme, in particular through the private sector; (iii) assisting the judicial and security structures and transitional justice institutions; (iv) strengthening UNOCI structures working for the rule of law and human rights; and (v) strongly supporting the economic revival of Côte d'Ivoire;

(b) The Independent Expert reiterates his call for the lifting of the arms embargo against Côte d'Ivoire, with a view to strengthening the effectiveness of the State security bodies throughout the national territory;

(c) The Independent Expert reiterates his recommendation that the International Criminal Court should strengthen the impartiality and fairness of international justice by issuing arrest warrants for all perpetrators of genocide, crimes against humanity or serious crimes, whatever their political affiliation or ethnic or religious origin. The International Criminal Court is also called upon to show special vigilance for possible prosecution in response to political discourses and media campaigns that incite national, ethnic or religious hatred;

(d) The Independent Expert reiterates his recommendation that the Human Rights Council should publish the report of the International Commission of Inquiry on Côte d'Ivoire established in 2004, in accordance with the recommendation issued by the Commission in 2011 (A/HRC/17/48, para. 127).